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ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

BRIEF ON

BILL 125 AN ACT TO AMEND THE *EDUCATION ACT* AND CERTAIN OTHER ACTS RELATED TO EDUCATION, 1991

October, 1991

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

THE ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION represents over 90 public boards of education from all regions of the province, serving over 1,700,000 students and adult learners. OPSBA speaks for public education in Ontario and represents the interest of the public school trustees to the government, the public and the media.

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OPSBA BRIEF

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OPSBA BRIEF

BILL 125 AN ACT TO AMEND THE EDUCATION ACT AND CERTAIN OTHER ACTS RELATING TO EDUCATION

I. INTRODUCTION

A session of the Ontario Legislature would be incomplete without another "omnibus" selection of proposed amendments to the Education Act. On June 13, 1991 the Honourable Marion Boyd introduced **Bill 125 An Act to Amend the Education Act and Certain other Acts relating to Education.** The Minister in her Statement noted that, "the bill proposes a number of amendments to the Education Act. Many of these amendments are housekeeping matters, ... However some reflect recent ministry policy initiatives."

Prior to commenting in a clause by clause review to this particular set of legislative proposals, the Ontario Public School Boards' Association would like to comment first on the government's decision-making processes for selecting changes to the Education Act and other legislation governing the delivery of education, for introduction in the Legislature. It is recognized that some of the provisions are necessary to ensure compliance with the law as determined through court challenges under the Charter of Rights and Freedoms, some reflect Ministry policy directions, and some clarify existing provisions. However, the Association has transmitted to the Ministry of Education a variety of equally necessary legislative requests, that appear to have gone unanswered.

Some examples of OPSBA requested amendments:

- updating deficit financing provisions of the Act, post separate school extension and funding
- filling of trustee vacancies on school boards
- updating the provision of the act to be compatible with the Young Offenders Act requirements
- sharing of payments in lieu of taxes amongst school boards and municipalities
- revisions to the General Legislative Grant schedule (regulation)
- sharing of telephone and telegraph taxes in areas without municipal jurisdiction

- o revision to ensure equal ground for the public and separate school system in setting equalization factors

- o extension of probationary contract of teachers (in the draft circulated for consultation in February 1991)

These have been identified as only some of the legislative priorities of the local government partners, the public school boards of this Province. Many are needed to ensure efficient and effective delivery of education in our communities.

The Education Act itself has evolved over a period of time and has been subjected to a series of piece-meal reviews and a patchwork of amendments. It has been years since the Act which governs the delivery of elementary and secondary education has been the subject of any comprehensive review. The responsibilities of our education system have been in evolution for some time, and consequently there has been a time-lag between school board and Provincial government practice and the accompanying legislative authority. (Several of the proposed amendments in Bill 125 are examples of this). As well, the Canadian Charter of Rights and Freedoms and court decisions have been defining policies for the delivery of education in our communities. What has resulted is a complex, confusing and sometimes inconsistent piece of legislation governing our education system.

OPSBA recommends that:

1. **That the Ministry of Education in consultation with the Ontario Public Boards Association and the education community develop a system for more immediate revisions to the Education Act that reflect not only the priorities of the Provincial government but also the needs of public school boards.**

2. **That the Ministry of Education undertake a comprehensive review of the Education Act, for the purpose of developing a consistent and clear legal framework for the Province and school boards in the delivery of education.**

There are several review processes beginning which will have a fundamental impact on the responsibilities of the provincial government and local school boards in delivering education in our communities. Hopefully the end result of the deliberations of the review of education finance by the Ministry of Education and by the Fair Tax Commission will be a legislative clarification of the responsibilities and roles of the two levels of government.

II. BILL 125: CLAUSE BY CLAUSE REVIEW

DEFINITION OF EDUCATION AUTHORITY (SECTION 1 (1))

The bill suggests that the definition of "education authority" be expanded to permit one band or council of a band to become an incorporated education authority, for the purpose of assuming the local responsibility of native education in the area.

The legislation currently as written suggests that two or more bands or councils of bands are necessary for this purpose.

OPSBA Comment

On the advice of its Native Education Issues Committee, OPSBA supports this amendment as providing the needed flexibility for native education.

PUBLIC SCHOOL BOARD BOUNDARIES (SECTION 1.(2))

In the earlier consultation draft on these amendments, the Ministry proposed that in order to continue the general rule that all school board boundaries follow either current municipal boundaries or a combination of municipalities or geographic townships, the Education Act be amended to permit the Minister of Education to establish public school board boundaries in the same manner as the legislation now applies to divisional school boards in northern Ontario and district and county combined separate school boards. The government's rationale for this change has been stated as: " Since January 1, 1975 changes in boundaries of southern Ontario upper tier municipalities and defined cities have not automatically worked a change to the corresponding school division. In some cases, the legislation creating regional municipalities expressly reset school division boundaries. However this did not occur in all cases."

Presently the boundaries of public and separate school boards in northern Ontario are established by regulation under the Education Act. The bill suggests that the boundaries of public school boards in southern Ontario be automatically established through the municipal boundary negotiation process, the Municipal Boundaries Negotiation Act, without a need for the regulatory process under the Education Act.

> "(6) If an alteration is made in the boundaries of county, regional municipality or defined city, the boundaries of a school division in the county, regional municipality or defined city shall deemed to be adjusted accordingly from the date of alteration.

OPSBA Comment

The Association notes that the explanation of the issue as noted above in the proposals for legislative change circulated for consultation by the Ministry of Education in February of this year, does not exactly correspond to the proposed legal wording in Bill 125. The above section (6) states that if the municipal boundaries are changed, "the school division in the county, regional municipality or defined city shall deemed to be adjusted accordingly, from the date of the alteration."

This is not school board boundary change by Education Act regulation, but in fact school board boundary adjustments by means of the legislation governing municipal government, the Municipal Boundaries Negotiations Act. If this is the intent, OPSBA does have serious concerns with this proposed amendment to the Education Act, as the current law does not allow school boards that would be impacted by boundary or annexation proposals to participate in the process.

The Municipal Boundaries Negotiations Act suggests that the local school board is consulted in the fact-finding stage of this process only. The Minister of Municipal Affairs, upon receipt of an application from a municipality "shall obtain the opinion of any school board he considers affected by the application." (Section 4(2)). The local school board's opinion is only sought as part of the fact finding process in the early stages of the boundary negotiations. Once the negotiating stage is reached, the stage at which the original application may be significantly changed, the only parties to the process are the "party municipalities" and the Provincial government.

There will likely be more municipal boundary adjustments reflecting the policy direction of the Provincial government of "strengthening" municipal government by county restructuring and boundary adjustments in an effort to ensure the fiscal "viability" of municipalities. OPSBA notes that municipal boundary changes could therefore significantly impact some public school boards, particulary those in areas that do not have boundaries completely coterminous with county governments. Although many public school board jurisdictions complement county boundaries, there are some instances where this is not the case: the London Board of Education, Windsor Board of Education, Hamilton Board of Education.

The amendment could also impact public school boards such as the Northumberland and Newcastle Board of Education, which covers more than one municipal jurisdiction.

These city school boards and their neighbouring boards could experience a loss or rearrangement of a significant portion of their enrolment and assessment base. OPSBA strongly objects to the above proposal that suggests that once municipal borders are altered through the Municipal Boundaries Negotiations Act, the school board boundaries shall also deemed to be altered. It is a process in which school boards are not participants but observers.

OPSBA recommends that:

3. **The Municipal Boundaries Negotiations Act be amended in this session of the Legislature to include school boards as "parties" to any boundary negotiation processes in the affected areas.**

OPSBA also notes that this provision will have been deemed to be in force from January 1, 1975. This suggests that any municipal boundaries adjustments from 1975 on, will have deemed to have also changed school board boundaries. OPSBA would like clarification of this retroactivity.

MANDATORY PARTICIPATION IN MINISTRY REVIEWS (SECTION 2.(1)

Bill 125 proposes that the Ministry "conduct reviews of classroom practices and the effectiveness of educational programs and require a board or a private school inspected under section 15(7) to participate in the reviews and to provide information to the Minister for that purpose in such a form as the Minister may prescribe."

OPSBA Comment

OPSBA supports the current provincial review process which assesses classroom practices and the effectiveness of education programs. School boards have been active voluntary participants in these reviews.

We support the amendment which gives the Minister the power to conduct such reviews and require board participation in the process on condition that there is a clearly defined process, developed in consultation with all education stakeholders, for the designing and conducting of these reviews.

Clarification of the intent of this amendment in relation to the recently announced "Provincial Benchmarks Project" is required. Clarification of the role of the various members of the educational community in providing advice to the project is also required particularly in light of the recent disbandment of the Provincial Advisory Committee on Evaluation Policies and Practices (PACEPP), which provided advice to the Minister on matters of evaluation and assessment.

DRUG EDUCATION (SECTION 2.(2))

This bill gives the Minister the power "establish a drug education policy framework and requires boards to develop and implement a policy on drug education in accordance with the framework."

OPSBA Comment

OPSBA supports this amendment which will require "boards to develop and implement a policy on drug education in accordance with the framework" and congratulates the Ministry of Education on providing school boards with a framework for the development of such policies prior to amendments in the legislation.

There is the need for clarification, however, with regard to the relative responsibilities of the board and minority language sections in the development of drug education policies. The legislation clearly refers to "boards" but the framework previously developed by the Ministry of Education states that "the drug education policies shall be a matter of exclusive jurisdiction to be exercised by a board or section under clause (1) and (2) of subsection 277(m) of the Education Act, 1980". OPSBA cannot support such an interpretation which undermines the authority of the Board as a corporate body.

RACE AND ETHNOCULTURAL EQUITY (SECTION 2.(2)

If enacted the bill will require all school boards to "develop and implement an ethnocultural and anti-racism policy, to submit the policy to the Minister for approval and to implement changes to the policy as directed by the Minister".

OPSBA Comment

OPSBA supports in principle policies on race and ethnocultural equity but would request that the Ministry provide school boards with a framework, similar to that developed for drug education policies, to assist in the development of such a policy. The framework must also recognize that there will be different implementation consequences for different boards depending on the race and ethnocultural makeup within the jurisdiction of the board.

It must also be stressed that any policy on race and ethnocultural equity has to go hand-in-hand with a gender equity policy.

Finally, there is the need for clarification on the timelines for the development of such as policy.

EMPLOYMENT EQUITY PROGRAMS (SECTION 2.(2))

All boards will be "required to develop and implement a policy on the employment equity of women and other groups, to submit their policy to the Minister for approval and to implement changes to the policy as directed by the Minister."

OPSBA Comment

OPSBA supports in principle the amendment regarding school board employment equity programs.

RELIGIOUS EDUCATION (SECTION 3)

A number of amendments are proposed which will remove from existing provisions relating to religious exercises and religious education, any inference that they permit indoctrination in a particular religion contrary to the Canadian Charter of Rights and Freedoms.

It is proposed that paragraph 18 of subsection 10(1) of the Act be amended to clearly state that the Minister has the power to make regulations:

> governing the provision of programs of education about religion;
>
> restricting religious exercises and religious indoctrination;
>
> governing opening and closing exercises in schools."

Section 50 of the Act allowing a student to receive religious instruction is to be deleted.

It is proposed that the clause (235 (1)(c)) referring to the duties of a teacher in "inculcating the principles of Judaeo-Christian morality" be amended to read as follows:

> "to impart to pupils, by instruction and example, good moral character, respect for religious freedom and differences, and respect for the heritage, traditions and laws of Canada".

OPSBA Comment

OPSBA supports the proposed amendments to the Education Act which reflect recent court rulings relating to the Charter of Rights and Freedoms.

OPSBA recommends that:

4. **The amendment outlining the powers of the Minister be reworded from "restricting religious exercises ..." to "governing religious exercises ...". This amendment would be consistent with the wording for the other powers of the Minister under this section.**

We are pleased that the Ministry of Education has recognized the importance of the timely development of curriculum for programs "about religions" in public elementary schools and has established a committee to develop these curricula. There is the need for the development of clear guidelines for school boards with regard to the distinction between education about religions and religious indoctrination.

STUDENT SUSPENSION (SECTION 4)

The Bill proposes amendments to three sections relating to student suspensions and expulsions.

It is proposed that period of suspension shall not exceed twenty school days. School boards can, of course, have policies that call for lesser penalties.

It is clarified that an appeal of a suspension does not delay any suspension. If the suspension expires before the appeal is determined the board shall determine whether the suspension should be confirmed or whether the record of the suspension should be removed or modified.

Boards will be given the power to, by resolution, form a committee of at least three members to deal with both suspensions and expulsions.

OPSBA Comment

OPSBA supports the amendment that an appeal of a suspension does not stay the suspension but in cases where the suspension has expired prior to the appeal being heard, is for expunging the record only.

OPSBA does not support the amendment limiting the maximum amount of time for a suspension to 20 school days, regardless of the reason for the suspension. In certain circumstances, and given the seriousness of the offence, a suspension of 20 days is not long enough. Length of suspension should be at the discretion of the local board.

Although supportive of the right of the board to establish a committee to hear appeals to suspensions, OPSBA has concerns with the absolute authority of the committee with regard to the expulsion of a student. Expulsion of a student is an extremely serious decision. It involves the denial of the right of the student to attend school in the area of jurisdiction of a board for which she or he would normally have the right to attend as a resident pupil. Such a serious decision has an impact on future opportunities for that student. OPSBA does not support the amendment which enables a committee of the board to expel a student without approval of the whole board.

OPSBA recommends that:

5. **The draft amendments be revised to ensure that the length of suspension is at the discretion of the local school board.**

KINDERGARTEN (SECTION 5) AND 13 (1), 14(1) (2)

In accordance with the stated policy direction of the government, the bill once it becomes law will require school boards to provide kindergarten programs after August 31, 1992 and junior kindergarten after August 31, 1994.

OPSBA Comment

OPSBA recognizes the importance of early childhood education but stresses the need for flexibility in both implementation dates and strategies in recognition of both space and resource limitations of many boards. Innovative approaches to providing these services through the use of pilot studies should be seriously considered.

The need for flexibility is further heightened by the government's recent announcement to withdraw the remaining $50 million set aside in the 1991 Ontario budget to help meet school boards' implementation costs for Junior and Senior Kindergarten.

OPSBA recommends that:

6. **In recognition of both space and resource limitations of many boards, the government acknowledge the need for flexibility in both implementation dates and strategies for kindergarten programs. Regardless, until the government is in a position to reinstate the funds allocated for these programs, the deadline for mandatory kindergarten in all school boards should be extended.**

CONTINUING EDUCATION (SECTIONS 6, 14(3)

The bill proposes to remove the differences in admission requirements for regular day school and credit continuing education courses.

School boards involved in continuing education will be required, by regulation, to provide textbooks for students enroled in continuing education credit programs. As a result, an amendment is proposed to the Education Act which will give school boards the permissive power to "require a pupil enroled in a continuing education credit course to pay a nominal deposit for a textbook".

OPSBA Comment

OPSBA supports the amendment which makes admission requirements for regular day school and credit continuing education courses similar. Adults have the right to education but would like to stress that schools must have some discretion in the appropriate placement of these adults.

We also wish to express some concerns with regard to access to programs in regular day school. The Ministry of Education needs to examine the issue of adequate safeguards and refer concerns in this area to other appropriate Ministries for examination as required.

OPSBA does not support the amendment which provides boards with the authority to require a deposit for textbooks provided to pupils enroled in a continuing education credit course. If adult education is to be recognized as a legitimate component of the education system, then adequate and equitable funding must be guaranteed by the provincial government to provide for textbooks for these programs.

If boards are required to undertake the responsibility of providing textbooks for continuing education credit courses, adequate funds must be allocated for not only the cost of these books but to offset the administrative costs associated with managing this additional responsibility.

DIRECTION OF SCHOOL SUPPORT FOR NON-SHARE CAPITAL CORPORATIONS (SECTIONS 9, 10, 20, 22, 23)

Bill 125 recommends that property taxes payable by the Crown (federal and provincial), municipal corporations, and non-share capital corporations be shared between the public and separate school systems in the same manner as the procedures for the designation of public corporations. The bill contains the appropriate amendments to the Education Act, the Assessment Act to accomplish this.

There is a new definition of assessment for the designation of education property taxes:

> "Assessment: in respect of a designated ratepayer, corporation or partnership, means the assessment of land under the Assessment Act of which the designated ratepayer, corporation or partnership is either the owner or occupant or actual possessor, and included the business or other assessment of the designated ratepayer, corporation or partnership under the Act."
>
> "designated ratepayer means the Crown in right of Canada or the province, a municipal corporation, a public corporation, or a corporation without share capital or a corporation sole."

Draft section 10(7) of the bill states that the above sharing would not apply to these types of properties if they were exempt from taxation or if they were subject to payments in lieu of taxes under Section 368i of the Municipal Act.

In non legal language, this means that Bill 125 expands the sharing of corporate assessment between the public and separate school systems to include not just public corporations (Bill 64 An Act to Amend the Education Act and related Acts of 1989) but also these types of properties:

- office buildings, properties etc rented by the Federal or Provincial governments (an example of property taxes paid by a crown or municipal government that is not subject to payments in lieu or is not tax exempt)

- a corporation sole, which is a "corporate" property, but the ownership is vested in one individual i.e the archbishop. This applies to some properties owned by the Roman Catholic and the Anglican church.

- properties owned by charitable or non-profit organizations, that are not tax exempt

The sharing is in the same ratio as that for public corporations, in the proportion of public/separate farm and residential assessment.

OPSBA Comments

The Provincial government has stated that "the inability of (these types of corporations) to support separate schools is incongruous and inequitable when compared with the rights of both public and share capital corporations." However OPSBA suggests that this amendment has been introduced as a result of a number of school board assessment appeals and challenges to the existing legislation regarding the designation of school support and the attempts by the separate school system to gain access to additional property tax revenue. As well the clarification of a "corporation sole" as referring to specific church properties explains any pressure to amend the legislation to ensure that property taxes paid by the Roman Catholic church are allocated to the separate school system.

OPSBA is aware that the current assessment practices of the Ministry of Revenue do not distinguish corporate assessment by "type". The current assessment roll records only corporate assessment and the direction of school support. Prior to implementation of this bill (It will be retroactive back to January 1, 1991, Section 24 (5)) the Ministry of Revenue will have to design an assessment system which will accurately track the school support of:

public corporations
corporations sole
federal and provincial Crown properties subject to taxation
municipal properties subject to taxation
charitable or non-profit corporations subject to taxation

(These are not now identifiable on the assessment data-base)

There is another fundamental principle that is violated by the governments rationale for this amendment, "the rights of public and share capital corporations" to direct their school support. This is the concept that the public education system which provides non-discriminatory educational opportunity, must also have an adequate revenue base to support this. The public education system serves three times as many students, provides a wider range of programs and services, many of them high cost programs such as special education.

OPSBA does not dispute the principle of "equity", which is supposedly the rationale for this amendment. However this adherence to the principle of "equity" is questionable, when one compares revenue access to the mandates of the two systems. The public education system has the mandate to "educate" all students regardless of religion, race, gender, ethnic origin, language, geography, or disability. The separate school system is accessible only to those of the Roman Catholic faith. The public education system in 1989-90 had over 1.34 million students; while the separate school system had 559,000. Therefore "equity" in funding cannot be translated into equal funding or even equal access to revenue. On a per pupil basis, the public system requires a broader revenue base, in this case property tax base.

Therefore OPSBA does not support the expansion of the sharing of corporate taxes to include non-share capital corporations, ~~non-tax~~ exempt Crown corporations, municipal corporations, etc.

OPSBA recommends that:

7. **Sections 9, 10, 20, 22, 13 of Bill 125 regarding sharing of non-share capital corporation assessment be deleted.**

8. **The government introduce private legislation to enable particular properties of the Roman Catholic Church (corporation sole) to direct their property taxes to the separate school system.**

OPSBA hopes that the Provincial government in its forthcoming review of education finance, and the Fair Tax Commission in its review of the "appropriateness" of the property tax in funding education (both public, separate and french-language) will seriously examine the current system of property tax sharing with the intent of developing an approach to financing education that is understandable to the public, administratively simpler, and less confrontational. As this process is just beginning, it is inappropriate to change the property tax revenue base for education at this time. A more comprehensive approach is required.

OPEN ACCESS STUDENTS (SECTION 11)

Bill 125 contains a provision for the "grandfathering" of secondary separate school pupils and the preference of school boards to use the open access provisions rather than the tax transfer process.

The bill once enacted will change all of theses types of students to "open access" students.

OPSBA Comment

OPSBA supports this amendment.

BILL 30 AND SCHOOL CLOSURES (SECTION 12)

The negotiations regarding the transfer of schools between the public and separate school systems in implementing the extension of the separate school system (Bill 30) have brought into question the existing Education Act provisions regarding school closures. Bill 125 section 12 clarifies that the transfer of a school for the purpose of addressing Bill 30 accommodations needs, is not the closing of a school.

Bill 125 suggests that Section 136 of the Education Act be amended:

> "136xaa The transfer of a school site as a result of an election under section 136(a) is not a closing of a school."

OPSBA Comment

The Ministry of Education stated in its earlier consultation report on these proposed amendments that "the resolution of Bill 30 accommodation needs frequently involves the transfer of a school between coterminous boards. -- Bill 30 transfers are different from redundancy closures in that the teachers and staff of the school may remain together in another school building. The timelines required to follow a board's school closure policy may delay a school transfer that is beneficial to both boards."

OPSBA does not understand this rationale.

Presently there are two widely different processes for the closure of schools under the Education Act, one for "normal" circumstances as directed by Section 150(1) (6) of the Act, and one for changes in ownership as a result of separate school extension, as under Section 136 of the Act. There are two distinct rules for each, although in fact from the student and ratepayer perspective a transfer of a school from one system to another (thereby restricting access to some) is no different from a school closure.

NOTICE OF OFFENSES (SECTION 13(2))

In the future school boards will be required to notify the Minister if a teacher is convicted of an offence involving sexual conduct and minors (under the Criminal Code). The Minister would have the authority to suspend or cancel a teacher's certificate after review of the circumstances, if a teacher was convicted of sexual misconduct or child abuse or another criminal offence that appeared to place the students at risk.

OPSBA Comment

OPSBA agrees with the above proposal that school boards be required to notify the Minister when teachers are convicted of crimes. The Association does suggest that the interpretation of "on reasonable grounds and probable grounds" requires additional clarification.

OPSBA recommends that the bill be amended to include a similar provision as contained in the Child and Family Services Act to protect school boards from potential liability. The provision would read:

> "where a board of education has reported a criminal conviction to the Minister, no action for making the report shall be instituted against the board who acts in accordance with clause (m) of subsection 8(1) of the Act, unless the board acts maliciously or without reasonable grounds in the determination of placing pupils at risk."

10. **OPSBA recommends that an amendment to section 13(2) of the bill to ensure that in the cases of reporting a conviction to the Minister, no action may be taken against the board.**

SICK LEAVE CREDITS (SECTION 15)

A school board employee's sick leave credits will be transferable from one board to another, regardless of any intervening employment.

OPSBA Comment

OPSBA does not support the removal of "intervening employment" from Section 158 (2) (4) and (6) of the Education Act.

This revision would automatically increase school boards' liability under Section 158 (1) of the Education Act where a retirement gratuity exists. Sick leave credits, accumulation and benefits provisions (e.g. LTD) are very generous in school boards and any extension to increase the liability should be avoided.

Public school boards in Ontario under the guidelines of the Ministry of Education have instituted public consultation processes on all school closures. This is in keeping with the principle of community participation in the decision-making regarding community property, the local school. In most areas the local school is not just the education centre but also a community facility for recreation, cultural activities, adult education, child care .

The transfer of schools due to the expansion of separate education, under Section 136 of the Education Act, can result in the loss of access to some of the community schools. However, it is not a process guided by the principle of public consultation. The Planning and Implementation Commission makes its recommendations to the Minister "derived from plans developed locally with the cooperation of all concerned parties" but the parties are the respective school boards, each working independently on their respective "plans" which are then shared with the respective boards and the Commission. The public is not involved in this process.

OPSBA would like to reiterate its 1989 policy on Bill 30 negotiations between coterminous school boards: "that the Association supports only locally responsive agreed-upon solutions to the problems concerning space allocations between coterminous school boards, including the sharing of schools". Locally agreed upon solutions can only be found if there is some avenue of sharing information, consulting with the community, and some authority for both public and separate school elected officials to work with their communities to arrive at a cooperative solution. This would suggest that the current provisions under Section 136 should be reviewed to incorporate this principle.

The reference in Bill 125 to the legislative clarification that Bill 30 situations are not "school closures" only services to emphasize the disparities between the two processes. OPSBA does not support this amendment and does not agree with the time-saving rationale of the Ministry of Education used to justify its promotion. Rather than this amendment, perhaps it time to review the procedures regarding separate school extension regarding the resolution of school space under Section 136 of the Education Act.

Sidestepping public involvement for the sake of expediency is inappropriate in a democratic society.

OPSBA recommends that:

9. Section 12 of Bill 125 be deleted.

11. OPSBA cannot agree to a revision which would extend provisions for occasional teachers, that would otherwise be an issue between the parties under the Ontario Labour Relations Act. In the alternative, a provision which might remove "intervening employment" should exclude the transfers of sick leave from section 158(1) - Retirement Gratuity plans.

SUPERVISORY OFFICER FOR SCHOOL BOARDS WITH 2,000 OR LESS ENROLMENT (SECTIONS 17, 18, 19)

Bill 125 recommends that boards of education, district school boards, rural separate school boards, or combined separate school boards having an enrolment of 2,000 or less students, must appoint a supervisory officer. The Act presently does not require these small boards to have this official. The bill will permit the sharing of this position amongst boards, by agreement. (Isolate boards in northern Ontario will continue to have access to this service from the Ministry of Education).

OPSBA Comment

The Association in 1990 expressed its concerns to the Ministry of Education, on behalf of its northern Ontario members, regarding the withdrawal in 1989 of Ministry of Education supervisory services for small northern school boards. Since then many of these small boards have attempted to negotiate the sharing of supervisory services, but arrangements have not been developed due to financial restrictions and due to the distances between these boards.

The requirement for smaller boards to have a supervisory officer either on staff or as a shared position, impacts all the boards in an area. Agreements for the sharing of this position amongst school boards must also take into consideration the administrative implications, travel costs, sharing of personnel. The Ministry of Education must be aware of the direct and indirect administrative and financial implications and provide the necessary support.

OPSBA recommends that:

12. OPSBA urges the government to assist these small boards by providing funding and resource support to enable the successful development of a network of shared supervisory officer positions.

SHARING OF TELEPHONE AND TELEGRAPH TAX FOR "UNEXTENDED SEPARATE SCHOOL BOARDS

Section 21 of the bill recommends that telephone and telegraph taxes would not be allocated to the separate school board if it does not perform the duties of a secondary school board.

OPSBA Comment

OPSBA notes that Bill 64, an Act to amend the Education Act, 1989 which provided for the sharing of telephone and telegraph tax did not differentiate between those separate boards that did offer secondary school programs and those that did not. Therefore these revenues have been allocated to separate school boards for the financing of secondary education, a responsibility that some have not assumed. The separate school board has been over-compensated and the public school board under-compensated.

OPSBA supports this amendment as a fair allocation of resources in line with education responsibilities.

OPSBA would urge the government to address another "housekeeping" amendment to the appropriate acts regarding the sharing of telephone and telegraph taxes. (This is an example as noted in the introduction of this brief of a public school board legislative priority).

Section 161 of the Municipal Act provides for the sharing between the municipalities and the local school board(s) of telephone and telegraph taxes of companies operating in the jurisdiction. However in areas of the province without municipal jurisdiction, the revenues collected are payable to the Ministry of Revenue and are consequently not shared with the local school board. There are situations where areas in northern Ontario may not have municipal organization, but do have local public school board.

13. **OPSBA recommends that the Provincial Land Tax Act and the Municipal Act be amended to enable the equitable sharing of taxation from telephone and telegraph with the local public school board in those areas without municipal organization.**

III. CONCLUSION

The Ontario Public School Boards Association thanks the Standing Committee for the opportunity to present the views of the public school boards of Ontario on Bill 125. We have recommended change to some sections of the bill and we hope that the Legislature will revise the bill to ensure that the Education Act addresses the needs of public boards.

We also would like to stress our first recommendation - that the Ministry of Education work with the school board associations and with OPSBA to develop a system for an on-going review of the Education Act which takes into account not only Provincial priorities but public school board priorities.

IV. SUMMARY OF RECOMMENDATIONS

1. That the Ministry of Education in consultation with the Ontario Public Boards' Association and the education community develop a system for more immediate revisions to the Education Act that reflect not only the priorities of the Provincial government but also the needs of public school boards.

2. That the Ministry of Education undertake a comprehensive review of the Education Act, for the purpose of developing a consistent and clear legal framework for the Province and school boards in the delivery of education.

3. The Municipal Boundaries Negotiations Act be amended in this session of the Legislature to include school boards as "parties" to any boundary negotiation processes in the affected areas.

4. The amendment outlining the powers of the Minister be reworded from "restricting religious exercises ..." to "governing religious exercises ...". This amendment would be consistent with the wording for the other powers of the Minister under this section.

5. The draft amendments be revised to ensure that the length of suspension is at the discretion of the local school board.

6. In recognition of both space and resource limitations of many boards, the government acknowledge the need for flexibility in both implementation dates and strategies for kindergarten programs. Regardless, until the government is in a position to reinstate the funds allocated for these programs, the deadline for mandatory kindergarten in all school boards should be extended.

7. Sections 9, 10, 20, 22, 13 of Bill 125 regarding sharing of non-share capital corporation assessment be deleted.

8. The government introduce private legislation to enable particular properties of the Roman Catholic Church (corporation sale) to direct their property taxes to the separate school system.

9. Section 12 of Bill 125 be deleted.

10. OPSBA recommends that an amendment to section 13(2) of the bill to ensure that in the cases of reporting a conviction to the Minister, no action may be taken against the board.

PAULA DUNNING
President

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FOR YOUR INFORMATION ONLY 8.

PENNY MOSS
Executive Director

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30 October 1991

The Honourable Tony Silipo
Minister of Education
Ontario Ministry of Education
900 Bay Street, Mowat Block
Minister's Office, 22nd Floor
Toronto ON
M7A 1L2

Dear Minister:

We are pleased to forward to you the Association's comments on Bill 125, An Act to Amend the Education Act and Certain Other Acts related to Education.

OPSBA is aware that this Bill will receive second reading in the Legislature shortly, and therefore we urge you to consider referring the Bill to the appropriate Committee of the Legislature for clause-by-clause review to allow the education community to address specific concerns regarding some of the amendments.

OPSBA's Board of Directors approved this report at its October 25th meeting. The report reflects the concerns of the membership. Public school trustees request the opportunity to present their views on:

- school board boundaries
- religious education
- student suspension
- kindergarten
- the direction of school support for non-share capital corporations
- Bill 30 and school closures
- sick leave credits
- notice of offences
- sharing of telephone and telegraph

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OPSBA looks forward to the Ministry's response to this brief, and we also anticipate participating in the legislative process by appearing before the Standing Committee of the Legislature.

Yours sincerely,

Paula Dunning

Paula Dunning
President

cc Mr Robert Mitton, Deputy Minister, Ministry of Education
Mr Mark Larratt-Smith, Assistant Deputy Minister, Ministry of Education
Sherrill Game, Executive Assistant, Minister of Education
Janice Gallivan, Liaison Services, Ministry of Education